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**FEDERAL COMMUNICATIONS COMMISSION**  
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Federal-State Joint Board on Universal  
Service;

Comments on the Rural Task Force  
Recommendation

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)  
) CC Docket No. 96-45  
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) FCC-00J-3  
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**REPLY OF THE VIRGIN ISLANDS TELEPHONE CORPORATION**

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November 30, 2000

Noted/Copied/checked CH4  
ENCLOSURE

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## TABLE OF CONTENTS

	<u>Page</u>
SUMMARY .....	ii
I. ARGUMENTS IN FAVOR OF EXISTING FUND CAPS LACK MERIT. ....	2
A. Commenters Expressing Concerns About the Total Size of the Fund Do Not Provide a Valid Basis for Rejecting the RTF Recommendation. ....	2
B. Creating Arbitrary Cost-Cutting Incentives Is Not a Statutory Criterion for Universal Service Support. ....	4
C. The “Safety Valve” Mechanism Represents a Reasonable, Lawful, Compromise Position.....	5
D. The Adjustment to Frozen Loop Costs for Catastrophic Events Is Generally Supported and Represents a Reasonable, Lawful, Compromise Position. ....	6
E. There Is General Support To Revise the High Cost Fund Cap.....	9
II. USING A FLEC MODEL TO COMPUTE SUPPORT FOR RURAL AND INSULAR AREAS IS INHERENTLY FLAWED.....	10
A. Simply Changing the Inputs Will Not Correct the Inherent Flaw of Models—A Failure To Capture the Unique Characteristics of Rural Areas. ....	10
B. The Use of Two Different Methodologies Is Lawful in this Instance. ....	13
III. CONCLUSION.....	14

## SUMMARY

A majority of commenters support the recommendations of the Rural Task Force (“RTF”) as a reasonable compromise to provide the universal services support required by law to rural and insular carriers. The recommendations account for the special statutory status of insular carriers and provide a sufficient amount of time for full evaluation. However, a few parties (unsurprisingly those carriers and states that are net contributors to the universal service fund) attempted to discredit the work of the RTF. These objections, however, are meritless: they either raise statutorily irrelevant issues, ignore the lawfulness of the RTF’s position, or fail to address real differences between non-rural and rural and insular carriers.

Opponents of the RTF tried to argue in favor of the existing fund caps. They grumbled that the size of the fund after implementation would grow and that the recommendations did not include sufficient cost-cutting incentives. They fail to acknowledge, however, that the overall size of the fund and the creation of artificial cost-cutting incentives are simply not covered by Section 254. Instead, Section 254 requires that the fund be “specific, predictable, and sufficient”—not limited, restricted, or controlled by artificial cost-cutting incentives. To that end, the RTF reasonably redesigned the mechanism to resize the high cost fund, to include a “safety valve” for acquired lines, and to provide an adjustment to frozen loop costs in the event of a catastrophic event. These provisions enjoyed substantial support in the comments and are reasonable, lawful, compromise positions. In fact, such changes are required to meet the mandate of Section 254.

Detractors also complained about the RTF’s finding that the non-rural model failed to produce predictable, reliable and sufficient support, arguing that the conclusion would have been

different if only other inputs were used. This view, however, distorts the ultimate conclusions reached by the RTF. Not only did the RTF's study find fault with the results of the non-rural model, the RTF's findings also highlighted the flaws with the internal workings of the model itself. As recognized by Congress, what works for non-rural carriers will not necessarily work for rural and insular carriers. As illustrated in the record, rural and insular carriers face a unique mix of problems and customer base and provisioning issues. As a result, it is unsurprising that the non-rural model fails to meet the universal service needs in rural and insular areas and that the RTF recommended the use of a different model. Thus, given the different circumstances faced by the rural and non-rural carriers in this instance, it is lawful for the RTF to make a distinction between them.

The time for delay is over, particularly given the extensive amount of study and examination on these issues. Immediate action must be taken to ensure that all Americans, no matter where they live or work, will continue to enjoy access to affordable, reliable, and modern telecommunications services.

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**REPLY OF THE VIRGIN ISLANDS TELEPHONE CORPORATION**

The Virgin Islands Telephone Corporation (“Vitelco”), by its attorneys, hereby submits this reply to the comments submitted in response to the *Public Notice*<sup>1</sup> requesting input on the recommendations of the Federal-State Joint Board’s Rural Task Force (“RTF”).<sup>2</sup>

A majority of commenters support the recommendations of the RTF, which represents the consensus of the diverse interests that will be affected by the reforms adopted in this proceeding. A number of those parties join with Vitelco in urging the Federal-State Joint Board (“Joint Board”) to take action on the recommendations, including those that resize the funds and reject the application of a forward-looking economic cost (“FLEC”) model. Opponents of those two recommendations fail to appreciate that both the present system of support and the system adopted for non-rural carriers fail to satisfy the statutory requirement of Section 254 of the

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<sup>1</sup> *Federal-State Joint Board on Universal Service Seeks Comment on the Rural Task Force Recommendation*, CC Docket No. 96-45, FCC-00-J-3 (Oct. 4, 2000) (“*Public Notice*”).

<sup>2</sup> *Federal-State Joint Board on Universal Service, Rural Task Force Recommendation to the Federal-State Joint Board on Universal Service*, CC Docket No. 96-45 (Sept. 29, 2000) (“*RTF Recommendation*”).

Communications Act to provide “sufficient” support for rural and insular carriers. Rather, these parties focus on issues without statutory foundation or fail to recognize the full depth of the RTF’s analysis and findings. The rural and insular carrier universal support mechanism must faithfully adhere to Section 254’s statutory requirements. The five-year program devised by the RTF represents a reasonable compromise and provides a sufficient period of time, given the diversity of the carriers affected, to determine how effective the RTF’s proposals are. Therefore, immediate action must be taken to ensure that all Americans, no matter where they live, will continue to enjoy access to affordable, reliable, and modern telecommunications services.

## **I. ARGUMENTS IN FAVOR OF EXISTING FUND CAPS LACK MERIT.**

### **A. Commenters Expressing Concerns About the Total Size of the Fund Do Not Provide a Valid Basis for Rejecting the RTF Recommendation.**

Several commenters expressed concern that the RTF Recommendation, if adopted by the Commission, would increase the size of the Universal Service Fund (“USF”) from the existing level. This knee-jerk reaction to the RTF Recommendation disregards the statutory criterion that governs the size of the USF—“support should be explicit and *sufficient* to achieve the purposes of [Section 254].”<sup>3</sup> The Commission has embraced this statutory requirement and repeatedly stressed that universal service support must be “specific, predictable, and sufficient.”<sup>4</sup>

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<sup>3</sup> 47 U.S.C. § 254(e) (emphasis added). Congress also referred to the “specific, predictable, and sufficient mechanisms established by the Commission to preserve and advance universal service.” *Id.* § 254(d). In addition, Congress established that “[t]here should be specific, predictable, and sufficient Federal and State mechanisms to preserve and advance universal service” as one of the principles governing universal service. *Id.* § 254(b)(5).

<sup>4</sup> *Federal-State Joint Board on Universal Service*, 14 FCC Rcd 20432, 20442 (1999)(Ninth Report and Order and Eighteenth Order on Reconsideration); *Federal-State Joint Board on Universal Service*, 12 FCC Rcd 8776, 8783 (1997) (Report and Order) (quoting 47 U.S.C. § 254(d)).

Notably, Section 254 does not specify a fixed size for the fund. Nor does it require the Commission to establish a fixed size.<sup>5</sup> Instead, the size of the fund is merely a function of the distributions necessary to provide carriers with sufficient support to meet Congress's mandate of providing service to "rural, insular, and high cost areas" at "reasonably comparable" rates.<sup>6</sup>

Not surprisingly, states that are net contributors to the universal service fund oppose the RTF Recommendation. Indeed, they object to each and every adjustment proposed by the RTF that would have an impact on the size of the fund: re-basing the fund; modifying the indexed cap; and the inclusion of "safety net," "safety valve," and "catastrophic event" provisions.<sup>7</sup> This aggressive position—opposition to any proposal that would have any adverse financial impact upon net contributor states—should be rejected because it does not adequately consider either the mandate of Section 254 to provide "sufficient" universal service support or the numerous and widespread benefits of the RTF Recommendation.

The RTF Recommendation proposes to modestly increase the size of the fund as the result of its determination that "[m]odifications are necessary to ensure support is sufficient to

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<sup>5</sup> Indeed, the Joint Board and the Commission in the past rejected proposals to adopt a fixed size for the USF. *See Amendment of Part 36 of the Commission's Rules and Establishment of a Joint Board*, 9 FCC Rcd 334, 336 (Joint Bd. 1993) (Recommended Decision); *MTS and WATS Market Structure: Amendment of Part 67 of the Commission's Rules and Establishment of a Joint Board*, 57 Rad. Reg. 2d (P & F) 267, 288 (Joint Bd. 1984) (Recommended Decision and Order), *adopted by the Comm'n*, 57 Rad. Reg. 2d (P & F) 511 (1984) (Decision and Order).

<sup>6</sup> 47 U.S.C. § 254(b)(3).

<sup>7</sup> *See* Comments by the People of the State of California and the California Public Utilities Commission, CC Docket No. 96-45, at 3-4 (Nov. 2, 2000) ("California PUC Comments"); Comments of the New York State Department of Public Services, Connecticut Department of Public Utility Control, Illinois Commerce Commission, and Maryland Public Service Commission, CC Docket No. 96-45, at 2-3 (Nov. 3, 2000).

achieve the universal service principles contained in Section 254.”<sup>8</sup> This adjustment is entirely consistent—and indeed is required—by Section 254. Moreover, the necessity for this adjustment is not undermined by the record developed in this proceeding. Although several commenters object to increasing the size of the fund, they failed to offer any evidence to support their position. In contrast, the RTF reached a consensus determination, after carefully reviewing the unique needs of rural and insular carriers, that a modest increase is *necessary* to ensure sufficient support. In light of the fact that a diverse group of industry stakeholders, including state regulators and universal service fund contributors agreed on a solution, this recommendation should be adopted by the Joint Board.

**B. Creating Arbitrary Cost-Cutting Incentives Is Not a Statutory Criterion for Universal Service Support.**

WorldCom states that a fund cap is beneficial because it encourages carriers to become more efficient. It argues that the RTF failed to consider “efficiency” when developing its Recommendation, which it suggests is an essential criterion to be considered in the development of universal service mechanisms.<sup>9</sup> The flaw in this argument is obvious: Section 254 simply does not authorize adoption of an artificial incentive to cut costs. Indeed, cost-cutting or efficiency is not one of the Section 254 principles of universal service.<sup>10</sup> The RTF correctly followed congressional dictates by founding its Recommendation upon Section 254’s requirement to establish “explicit and sufficient” support, and correctly applied the universal service principles set forth in Section 254.

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<sup>8</sup> *RTF Recommendation* at 21.

<sup>9</sup> See WorldCom Comments, CC Docket No. 96-45, at 7-8 (Nov. 3, 2000) (“WorldCom Comments”).



Nevertheless, contrary to WorldCom's suggestion, the universal service mechanisms recommended by the RTF *do* promote efficiency. For example, the "safety net" provision in the RTF Recommendation permits recovery of only 50% of any difference between a carrier's actual infrastructure expenses and the capped expense adjustment for that study area.<sup>11</sup> Similarly, the "safety valve" mechanism permits carriers to recover only 50% of the difference between their actual investments in acquired exchanges and the support level capped at the date of acquisition.<sup>12</sup> By allowing carriers to recover only a portion of these investments, the RTF Recommendation provides carriers a strong incentive to make efficient investments in plant.

**C. The "Safety Valve" Mechanism Represents a Reasonable, Lawful, Compromise Position.**

The RTF Recommendation urges the Commission to establish an appropriate "safety valve" mechanism for rural carriers that acquire access lines due to a sale or merger. This mechanism would allow rural carriers, in limited circumstances, to receive an adjustment in support in areas where they have acquired access lines, so that they may recover a portion of their additional investments in infrastructure. This recommendation represents a reasonable compromise between the diverse interests represented on the RTF, and between the interests of both net contributors and net recipients of universal service support.

The majority of commenters, including state commissions, either support or do not oppose the "safety valve" mechanism as a reasonable means of providing sufficient universal service support. The Regulatory Commission of Alaska ("RCA") supports the policy but notes a

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<sup>10</sup> See 47 U.S.C. § 254(b).

<sup>11</sup> RTF Recommendation at 27.

<sup>12</sup> *Id.* at 29-30, 44.

concern that “this mechanism might create an incentive for industry consolidation that would undermine competitive goals in rural markets.”<sup>13</sup> However, there is no record evidence that rural carriers could use this “safety valve” mechanism to manipulate the system just to receive additional universal service support. Moreover, the concern expressed by NASUCA—that this provision could “unnecessarily add to the cost of the fund”<sup>14</sup>—is unwarranted because Section 254 *mandates* the provision of sufficient universal service support, and the RTF has expressly determined that this adjustment is “necessary to ensure support” for rural and insular carriers “is sufficient to achieve the universal service principles contained in Section 254.”<sup>15</sup> Accordingly, the Joint Board should adopt this modest recommendation.

**D. The Adjustment to Frozen Loop Costs for Catastrophic Events Is Generally Supported and Represents a Reasonable, Lawful, Compromise Position.**

The RTF Recommendation would allow rural carriers to adjust the frozen per loop support to recover costs of catastrophic events that affect their ability to provide universal service.<sup>16</sup> Like RTF’s other recommended adjustments to the fund, this provision represents a

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<sup>13</sup> Comments of the Regulatory Commission of Alaska, CC Docket No. 96-45, at 3 (Nov. 1, 2000) (“RCA Comments”).

<sup>14</sup> Comments of the National Association of State Utility Consumer Advocates, CC Docket No. 96-45, at 3 (Nov. 3, 2000) (“NASUCA Comments”).

<sup>15</sup> *RTF Recommendation* at 21. Notably, despite stating that the safety valve provision is “less attractive” than other provisions of the *RTF Recommendation*, “NASUCA and its member offices support the comprehensive package in its entirety,” with “one minor exception” relating to the proposed High Cost Fund III. NASUCA Comments at 1; *see id.* at 4 (asserting that High Cost Fund III should be limited).

<sup>16</sup> *See RTF Recommendation* at 26. The Recommendation defines “catastrophic events” to include “hurricanes, floods, earthquakes, fires or other natural disasters evidenced by a declaration of natural disaster by state or federal authorities and which directly affect the ability of ETCs to deliver universal service.” *Id.*

reasonable compromise between the net contributors and net recipients of universal service support and should be adopted by the Joint Board.

Most importantly, this adjustment provides a mechanism for providing essential relief to rural carriers suffering from extraordinary natural disasters that would directly impact the ability of these carriers to provide universal service. This adjustment is an important safeguard for insular carriers such as Vitelco, which operate in areas subject to extreme weather conditions that can cause sudden demands for repair and replacement of infrastructure. As discussed in detail in Vitelco's initial comments, carriers in some insular areas face unexpected cost "spikes" as the result of hurricane damage to infrastructure.<sup>17</sup> The RTF concluded that severe weather conditions, such as those experienced in the U.S. Virgin Islands, also impact construction costs, operation costs, and significantly shorten plant service lives.<sup>18</sup> As a result of these findings, the RTF reached consensus on the "catastrophic event" provision as a reasonable means of providing sufficient support to rural and insular carriers.

Most commenters, including most state commissions, raised no objection to the provision. In fact, only a small handful of comments addressed the "catastrophic event" provision at all. These can be readily addressed. For instance, the RCA seeks additional clarification of the provision with regard to what would qualify as a "catastrophic event,"<sup>19</sup> but the RTF Recommendation contains an appropriate and workable definition.<sup>20</sup> The California

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<sup>17</sup> See Comments of the Virgin Islands Telephone Corporation, CC Docket No. 96-45, at 12 & App. A at 9-10, 20-21 (Nov. 3, 2000) ("Vitelco Comments").

<sup>18</sup> See Rural Task Force, *White Paper 2: The Rural Difference*, at 29 (Jan. 2000), available at <http://www.wutc.wa.gov/rtf>.

<sup>19</sup> See RCA Comments at 7.

<sup>20</sup> See *RTF Recommendation* at 26; see also *supra* note 15 (stating the RTF's definition of

Public Utilities Commission (“California PUC”) observes that the RTF “fails to explain” how this provision is consistent with Section 254.<sup>21</sup> This is simply not true: the RTF explained that this modification is “necessary to ensure support is sufficient to achieve the universal service principles contained in Section 254.”<sup>22</sup> Finally, Sprint opposes the catastrophic event provision, arguing that “the fund should not become a substitute for carriers’ insurance policies.”<sup>23</sup> This argument is misplaced because the RTF has *not* proposed this provision replace insurance coverage. Carriers would continue to be motivated to obtain private insurance coverage whenever possible and prudent to protect the value of shareholders’ investments.<sup>24</sup> This is particularly true because carriers always face a risk that a regulator will not adequately compensate it for investments made following a catastrophic event. The proposed catastrophic event provision would allow a carrier to recover only costs *not* reimbursed by its insurance carrier, so as to ensure that a carrier could maintain universal service even when disaster strikes. Sprint’s concern is thus without foundation.

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“catastrophic events”). In addition, NASUCA raises the same concern regarding this provision that it raises with respect to the “safety valve” mechanism—it fears that it could unnecessarily add to the cost of the USF. *See* NASUCA Comments at 3. This concern is misguided because the provision is limited by its own terms to the recovery of costs arising from catastrophic events that “directly affect the ability of ETCs to deliver universal service.” *RTF Recommendation* at 26. Moreover, as noted above, Section 254 *mandates* the provision of *sufficient* universal service support, and the RTF has determined reasonably that the “catastrophic event” provision, as part of a package of recommendations, “is necessary to ensure support” for rural and insular carriers “is sufficient to achieve the universal service principles contained in Section 254.” *Id.* at 21.

<sup>21</sup> California PUC Comments at 4.

<sup>22</sup> *RTF Recommendation* at 21.

<sup>23</sup> Comments of Sprint Corporation, CC Docket No. 96-45, at 3 (Nov. 3, 2000).

<sup>24</sup> Vitelco also notes that rural and insular carriers in some areas prone to severe weather conditions have been unable at certain times to obtain insurance coverage on reasonable terms and conditions.

The Joint Board should adopt this RTF recommendation as a reasonable means of providing carriers with sufficient support to deal with unpredictable cost “spikes” without jeopardizing the availability of reasonably comparable rates to consumers in “rural, insular, and high cost areas.”<sup>25</sup>

**E. There Is General Support To Revise the High Cost Fund Cap.**

The RTF Recommendation includes a new indexed cap for the high cost loop fund with annual maximum growth determined by the Rural Growth Factor (“RGF”), which is the sum of the change in the Gross Domestic Product-Chained Price Index and the percentage change in loop count for rural and insular carriers.<sup>26</sup> This abundantly reasonable proposal has met with almost no opposition. While commenters expressed some disagreement about the appropriate size of the fund, there appears to be widespread support for the RTF’s proposed indexed cap.

The California PUC objects to the proposed indexed cap on the grounds that it is “arbitrary and inconsistent with Section 254” and provides “no rational basis for [the fund’s] expanded scope.”<sup>27</sup> California PUC offers no reasoning to support these assertions.<sup>28</sup> An “interim” indexed cap based on the growth in the number of local loops has been in place since 1993.<sup>29</sup> Moreover, the record shows that this “interim” cap, which included an adjustment based upon the nationwide growth in the total number of loops but did not include an inflation

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<sup>25</sup> 47 U.S.C. § 254(b)(3).

<sup>26</sup> See *RTF Recommendation* at 25.

<sup>27</sup> California PUC Comments at 4.

<sup>28</sup> Moreover, as noted above, *supra* p. 3, the California PUC objects to all of the RTF’s recommendations that would have any impact on the size of the fund.

<sup>29</sup> See *Amendment of Part 36 of the Commission’s Rules and Establishment of a Joint Board*, 9 FCC Rcd 303, 305 (1993).

adjustment, has led to payment shortfalls in excess of \$350 million since 1994.<sup>30</sup> The recommendation to include an inflation adjustment in the RGF is a reasoned correction to this problem, and will prevent the continuation of this historic underfunding of the USF. Moreover, by tailoring the line growth adjustment to the growth in the number of local loops supported by *rural and insular* carriers, the RGF is better suited than the “interim” cap to accurately reflect the burdens experienced by this distinct group of carriers. Accordingly, the Joint Board should adopt this recommendation.

## **II. USING A FLEC MODEL TO COMPUTE SUPPORT FOR RURAL AND INSULAR AREAS IS INHERENTLY FLAWED.**

### **A. Simply Changing the Inputs Will Not Correct the Inherent Flaw of Models—A Failure To Capture the Unique Characteristics of Rural Areas.**

The RTF found that the application of the FLEC model developed for non-rural carriers simply failed to produce predictable, reliable and, most importantly, sufficient levels of funding for universal service for rural carriers.<sup>31</sup> A small number of commenters attacked this finding by the RTF, claiming that the problem was not with the model itself, but rather with the inputs to the model.<sup>32</sup> This, however, is a distorted reading of the RTF’s conclusions. In fact, the study also demonstrated that simply changing the inputs to the model will not correct the flaws highlighted by the RTF’s findings. As demonstrated by the RTF and in Vitelco’s initial comments, the

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<sup>30</sup> See Comments of the National Exchange Carrier Association, Inc., CC Docket No. 96-45, at 5 (Nov. 3, 2000).

<sup>31</sup> See RTF Recommendation at 17-19; Rural Task Force, *A Review of the FCC’s Non-Rural Universal Service Fund Method and the Synthesis Model for Rural Telephone Companies: White Paper No. 4* (Sept. 2000) (“RTF Model Study”), available at <http://www.wutc.wa.gov/rtf>.

<sup>32</sup> See WorldCom Comments at 2; Comments of General Communications, Inc., CC Docket No. 96-45, at 2 (Nov. 3, 2000).

application of a model of general applicability will not be able to capture the widely divergent characteristics of the areas served by different rural carriers.

As the Commission has explained, the key elements of a FLEC cost model include both inputs and the actual model platform, in which those inputs are manipulated.<sup>33</sup> While the inputs into the model can be particularized by carrier, the model platform itself will not be tailored to a specific carrier. In the case of the Synthesis Model, the platform includes generalized “assumptions about the design of the network and network engineering and fixed characteristics such as soil and terrain.”<sup>34</sup> These assumptions, of course, represent generalizations about conditions in order to give the model widespread applicability.

It is in this design geared to general applicability that the problem resides. If conditions exist that undercut the basic assumptions of the model’s platform, the model fails to achieve its purpose—no matter how good the input data. This failure of the Synthesis Model in the rural context is another lesson of the RTF’s study. Not only did the RTF find that the non-rural model failed to provide sufficient support to rural carriers, it also found that the model’s results diverged in all directions from reality. Also, when the model missed, it missed in a big way. For example, not only was the model above and below actual route miles, but in one-of-eight cases it missed the actual route miles by more than 200 percent.<sup>35</sup>

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<sup>33</sup> See *Federal-State Joint Board on Universal Service*, 13 FCC Rcd 21323, 21324 (1998) (“*Platform Order*”).

<sup>34</sup> *Id.* (emphasis added).

<sup>35</sup> See *RTF Model Study* at 9.

Moreover, while data from rural carriers was used in the RTF study, insular data was not.<sup>36</sup> The results arising from such data, if they were available, would likely skew the model even further. Vitelco has shown that the peculiar characteristics of insular areas are very different from the conditions on the mainland. Importantly, such differences go to the assumptions of the model platform, not just the inputs. Insular regions have service areas that are bisected by bodies of water. The geography of insular areas is also different from that on the mainland, including the topography, terrain, and weather conditions.<sup>37</sup> Each of these factors greatly impacts network design and engineering.

At bottom, it is clear that simply tweaking the model inputs will not be enough. As one commenter noted, “developing alternative inputs for use in the Synthesis Model would not solve the problem of using a one-network design model, based on a standardized set of engineering assumptions, to predict the costs of such a diverse group as the nation’s rural telephone companies.”<sup>38</sup> Moreover, the wide diversity between rural carriers would likely make it difficult to develop a rural equivalent to the non-rural Synthesis Model. After all, the results generated by the RTF showed wide diversity between different rural carriers. Rather than develop a number of different models to capture the rural difference, the RTF’s more practical solution has the benefit of satisfying the statutory directives without additional complexity.

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<sup>36</sup> See *id.* at 5 n.3 (noting that “due to data limitations it was not possible to run the model for some Rural Carriers, particularly those in Alaska and the insular areas”); see also *RTF Recommendation* at 18.

<sup>37</sup> See Vitelco Comments at 11-13 & App. A at 9-10, 19-22.

<sup>38</sup> Comments of TDS Telecommunications Corporation, CC Docket No. 96-45, at 3 (Nov. 3, 2000); see also Comments of The Western Alliance, CC Docket No. 96-45, at 8 (Nov. 3, 2000).



## **B. The Use of Two Different Methodologies Is Lawful in this Instance.**

The RTF recommended that a different mechanism be used to determine the level of support for rural carriers. One commenter argues, however, that using a different methodology for rural carriers “would be arbitrary and capricious.”<sup>39</sup> To make such a finding, a court would need to find that rural carriers and non-rural carriers are “similarly situated” and disparate treatment would be “unjustifiabl[e].”<sup>40</sup> As amply illustrated in the record, neither factor is true.

Indeed, when Congress itself has drawn a distinction, “those attacking the rationality of the legislative classification have the burden ‘to negative every conceivable basis which might support it.’”<sup>41</sup> Such is the case here. Congress has provided that such distinctions between non-rural carriers, and rural and insular carriers can be made by the Commission.<sup>42</sup> Moreover, as the RTF illustrated, rural carriers *are* different from non-rural carriers. For instance, rural carriers do not have sufficient numbers of customers to achieve economies of scale. These differences are not without consequence. For example, the markets and areas served by rural and insular carriers do not permit them to eliminate through averaging any inaccuracies that might result from the application of an imperfect model.<sup>43</sup> Thus, the Commission would be on firm ground in making

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<sup>39</sup> Comments of Qwest Corporation, CC Docket No. 96-45, at 7 (Nov. 3, 2000).

<sup>40</sup> *FEC v. Rose*, 806 F.2d 1081, 1089 (D.C. Cir. 1986).

<sup>41</sup> *FCC v. Beach Communications, Inc.*, 508 U.S. 307, 315 (1993) (quoting *Lehnhausen v. Lake Shore Auto Parts Co.*, 410 U.S. 356, 364 (1973)).

<sup>42</sup> See Comments of South Dakota Independent Telephone Coalition, CC Docket No. 96-45, at 4 n.5 (Nov. 1, 2000) (listing statutory provisions where Congress makes rural/non-rural distinction).

<sup>43</sup> See Vitelco Comments at 17-19; Comments of Roseville Telephone Company, CC Docket No. 96-45, at 3 (Nov. 3, 2000).

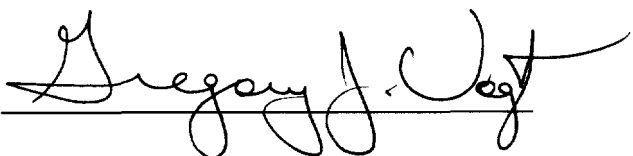
a rational decision in these circumstances to distinguish between rural and non-rural carriers and to use different methods to calculate universal service support.

### III. CONCLUSION.

Thus, for the foregoing reasons, Vitelco urges the Commission to reject the attacks on the recommendations of the RTF and to act quickly to adopt the program set forth by the Task Force.

Respectfully submitted,

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November 30, 2000

## SERVICE LIST

I hereby certify that on this 30th day of November 2000, I caused a copy of the  
Comments of the Virgin Islands Telephone Corporation to be delivered by first class mail to the  
following:

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